Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED
NOV - 8 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:	)	
	)	
Revision of the Commission's Part 64 Requirements for the Filing of Cost Allocation Manuals by Certain Local Exchange Carriers	))))	RM-8354

To: The Commission

COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC"), by its attorneys, hereby submits its comments on the United States Telephone Association's Petition for Rulemaking, filed on September 9, 1993 ("USTA Petition").[1] The United States Telephone Association ("USTA") has asked the Commission to amend Section 64.903(a) of its Rules to raise the revenue threshold for the requirement that a local exchange carrier ("LEC") file a cost allocation manual ("CAM") from $100 million to $1 billion in annual revenues for the reasons set forth below. PRTC supports the USTA Petition and urges the Commission to adopt the suggested change.

The Commission's Rules provide that: "Each local exchange carrier with annual operating revenues of $100 million or more shall file with the Commission a manual containing . . . information regarding its allocation of

---

[1] Public Notice, DA 93-1191, October 7, 1993.

No. of Copies rec'd 0+9
List ABCDE ACB

costs between regulated and nonregulated activities." 47 C.F.R. § 64.903(a). The information which must be contained in the CAM includes:

> (1) a description of each of the LEC's nonregulated activities;
>
> (2) a list of all the LEC's activities "incidental" to its regulated activities;
>
> (3) a chart showing all of the LEC's affiliates;
>
> (4) a statement identifying each affiliate that conducts transactions with the LEC and describing the nature, terms and frequency of each transaction;
>
> (5) a cost apportionment table which shows for each account of regulated activity, the cost pools within that account, the procedures for pooling and the methods used to apportion costs within each pool between regulated and unregulated activities; and
>
> (6) a description of the time reporting procedures that the LEC uses.

Id.

Each LEC must also update its CAM at least quarterly. 47 C.F.R. § 64.903(b). Changes to the cost apportionment table and the description of the time reporting procedures must be filed at least 60 days before the change is made. Id. For these changes and changes to the affiliate transaction statement, a LEC must file a statement quantifying the impact of each change on its regulated operations. Id. All LECs which file CAMs must also have an annual audit performed and must file that audit report with the Commission. 47 C.F.R. § 64.904.

The purpose of the proposed change to Section 64.903 is to relieve the burden of these requirements from LECs having annual revenues between $100 million and $1 billion. The LECs which would be affected by the proposed change are Rochester Telephone Corp., Cincinnati Bell Telephone Co., Lincoln Telephone and Telegraph Co., and PRTC. Because these LECs have much lower annual revenues than the LEC with the lowest annual revenues over $1 billion -- and also much smaller operating territories -- the cost of complying with this rule is disproportionately high for these four LECs in comparison with the costs for those whose revenues are over $1 billion. PRTC estimates that its cost of complying with the CAM filing requirement and its accompanying reporting requirements is approximately $188,000 a year. Puerto Rico Communications Company will incur similar costs as well.

The Commission itself has recognized that the cost of filing a CAM and the concomitant reporting requirements can be expensive and burdensome.[2] When the Commission adopted the requirement that certain LECs file CAMs, it also required all LECs to comply with its new standards for allocating costs between regulated and nonregulated activities. Those standards are contained in Section 64.901 of the Commission's Rules. Joint Cost Order, 2 FCC Rcd at 1305. The Commission stated, however, that

> most of the potentially burdensome enforcement provisions, including the requirement that a cost allocation manual be filed, the requirement of an annual independent audit, and the interim reporting requirements we will establish for purposes of monitoring cost allocations made pursuant to our standards, will apply only to [LECs with annual revenues over $100 million].

Id. at 1304.

---

[2] See Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298, 1304-05 (1987)("Joint Cost Order"), recon., 2 FCC Rcd 6283 (1987)("Joint Cost Reconsideration Order"), further recon., 3 FCC Rcd 6701 (1988), aff'd sub nom. Southwestern Bell Corp. v. FCC, 896 F.2d 1378 (D.C. Cir. 1990).

The filing requirement is particularly burdensome for PRTC. PRTC is a wholly-owned subsidiary of the Puerto Rico Telephone Authority ("PRTA"), which is a governmental entity. The Commission has found that, for purposes of the affiliate transaction statement required in the CAM, because PRTC is a governmental entity, it is "affiliated" with all other government entities in Puerto Rico. Puerto Rico Telephone Company's Permanent Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs, 3 FCC Rcd 7321, 7322 (1988)("PRTC CAM Order"). This means that PRTC must continually report its transactions with every governmental entity in Puerto Rico as well as its transactions with the other subsidiaries of PRTA. This is an onerous task.[3]

It is also a burden on the Commission to be required to review these affiliate transaction statements, the cost allocation manuals, the independent audit reports, and the other required reports. By eliminating the requirement for these smaller LECs, the Commission will conserve limited staff resources. It will also conserve LEC resources, permitting the LECs to deliver their services more efficiently and benefiting ratepayers.

---

[3] The Commission has recently proposed adding several items to be included in a LEC's CAM. Transactions Between Carriers and Their Nonregulated Affiliates, Notice of Proposed Rulemaking, CC Docket No. 93-251, FCC 93-453, released Oct. 20, 1993, at ¶¶ 93-97. These additions would expand the types of transactions which must be included in the CAM and in the quarterly updates. Id. They would also increase the amount of information a LEC would be required to provide concerning its affiliate transactions. Id. Clearly, these changes would increase the burden on LECs which file CAMs even further.

USTA's proposed change to Section 64.903(a) will reduce the Commission's regulatory burden without endangering its policy objectives. The purpose of the CAM filing requirement is to prevent a LEC from subsidizing its nonregulated activities with revenues from its regulated activities. This ensures that ratepayers "share in the efficiencies generated from joint use of the network" and pay just and reasonable rates for their telephone service. Joint Cost Reconsideration Order, 2 FCC Rcd at 6300. As USTA has noted, the LECs which would be affected by the proposed rule change engage in few nonregulated activities. USTA Petition at 4. For instance, PRTC's CAM, as of March 31, 1993, lists only five nonregulated activities in which PRTC engages: investment in customer premises equipment ("CPE"); marketing, installation and maintenance of CPE; installation and maintenance of inside wiring; customer-specific construction contracts; and packet-switching. Puerto Rico Telephone Company Cost Allocation Manual for the Separation of Regulated and Nonregulated Costs, AAD 7-1701, revised March 31, 1993, at II-1 to II-2. Nonregulated activities represent only about 6% of PRTC's business. See PRTC ARMIS Form 43.01, 4th Quarter 1992.

As USTA noted, PRTC has filed its CAM update regularly since the requirement was first instituted in 1987. Each CAM update has been placed on Public Notice, and parties have had an opportunity to comment on each. PRTC is aware of no comments which have been filed since 1987. Apparently, interested parties have found no significant issues regarding

PRTC's CAM which required comment. Thus, removal of the CAM filing requirement from PRTC would pose no meaningful regulatory problems.

The Commission has a variety of mechanisms in place by which it is able to detect and prevent cost shifting and misallocation by all LECs, including those which would no longer be subject to the CAM filing requirement if the USTA Petition were granted. All LECs are required to employ the cost allocation standards of Section 64.901 of the Commission's rules to assign costs either to their regulated or their nonregulated activities. 47 C.F.R. § 64.901. All carriers must also comply with the Commission's affiliate transaction rules. These rules set forth specific methods that LECs must use in determining the amounts to record in their accounts for transactions with their affiliates. 47 C.F.R. § 32.27. Finally, the Commission will still have the opportunity to review LECs' annual access tariff filings[4] and ARMIS reports even if the USTA Petition is granted because these will continue to be required of all LECs with annual revenues over $100 million. Neither USTA nor PRTC proposes that these requirements be changed.

CONCLUSION

Filing a CAM, having an independent audit performed, and the concomitant reporting requirements are burdensome. Because of PRTC's unique situation as a government entity "affiliated" with all other Puerto Rico

---

[4] PRTC is a member of NECA's traffic-sensitive and common line pools and therefore is not required to make an individual access tariff filing. It does, however, concur in the access tariff filed by NECA. NECA's tariff is, of course, subject to Commission review.

government entities, filing a CAM and CAM updates is particularly burdensome. The danger of PRTC subsidizing its regulated activities with revenues from its nonregulated activities is minimal. PRTC's nonregulated activities are small, and no issues have been raised regarding PRTC's CAM filings to date. For these reasons, the Commission should grant the USTA Petition and amend Section 64.903 of its Rules to require CAMs to be filed only by those LECs with revenues over $1 billion.

Respectfully submitted,

Joe D. Edge
Elizabeth A. Marshall

Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, DC 20006
(202) 835-8000

Counsel for Puerto Rico Telephone Company

November 8, 1993

CERTIFICATE OF SERVICE

I, Jean M. Layton, hereby certify that a copy for the foregoing Comments of Puerto Rico Telephone Company was mailed, postage prepaid, this 8th day of November, 1993 to the following:

Martin T. McCue, Esq.
United States Telephone Association
900 19th Street, N.W.
Suite 800
Washington, D.C. 20006

Jean M. Layton

Jean M. Layton

Q34034-1